

# EXHIBIT 1

1  
2 IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

3 -----x  
MARVEL CHARACTERS, INC.,

4  
5 Plaintiff and  
6 Counterclaim Defendant,  
vs.

7 LAWRENCE D. LIEBER,

Case Nos.  
1:21-cv-7955-LAK  
1:21-cv-7957-LAK  
1:21-cv-7959-LAK

8 Defendant and  
9 Counter-claimant.

-----x  
MARVEL CHARACTERS, INC.,

10  
11 Plaintiff and  
12 Counterclaim Defendant,  
vs.

13 KEITH A. DETTWILER, in his  
14 capacity as Executor of the  
Estate of Donald L. Heck,

15 Defendant and  
Counter-claimant.

-----x

16 MARVEL CHARACTERS, INC.,  
17 Plaintiff and  
18 Counterclaim Defendant,

vs.

19 PATRICK S. DITKO, in his  
20 capacity as Administrator of the  
Estate of Stephen J. Ditko,

21 Defendant and  
22 Counter-claimant.

-----x

23 VIDEOTAPED DEPOSITION OF PATRICK S. DITKO  
New York, New York  
Tuesday, February 14, 2023  
9:52 a.m.

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25 JOB NO. 5697050

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February 14, 2023

9:52 a.m.

Videotaped Deposition of  
PATRICK S. DITKO, held at the offices  
of O'Melveny & Myers LLP, Seven Times  
Square, New York, New York, pursuant to  
notice, before Jennifer Ocampo-Guzman,  
a Certified Realtime Shorthand Reporter  
and Notary Public of the State of New  
York.

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and that's how it was.

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Q. Meaning that you never discussed

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your brother's work with him?

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A. Right, correct.

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Q. Did he ever tell you why he had a

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rule that what happens in New York stays in

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New York?

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A. Because he was that private.

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Q. And did that rule that he applied

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to your relationship apply to his

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relationship with the balance of your family?

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A. Well, he told that to my mother, my

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mother relayed it to me, and we -- and then

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it got through all the kids and everything

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else; so it was the golden rule.

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Q. So it applied to your children as

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well?

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A. Yes. They were, you know, real

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young then.

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Q. And the same rule applied

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throughout the duration of your brother's

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life?

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MR. TOBEROFF: Objection, assumes

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facts. Objection as to form.

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getting confusing. But the questions are really not fair, because I don't have any knowledge, and I already said that.

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MR. TOBEROFF: And she's implying that there is no basis, when you say no.

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MS. LENS: No, I'm asking questions, as I'm entitled to do.

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MR. TOBEROFF: I know what you're doing and it's improper.

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14

Q. You haven't seen any checks from Marvel to Steve Ditko from the 1960s, have you?

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MR. TOBEROFF: Objection as to form, lacks foundation.

17

A. No.

18

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Q. And you haven't seen the backs of any checks from Marvel to Steve Ditko from the 1960s, have you?

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22

MR. TOBEROFF: Objection as to form, lacks foundation.

23

A. No.

24

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Q. And do you have any evidence that Steve Ditko wasn't paid for the pages that he

1

2 pencilled or inked for Marvel?

3 A. No.

4 Q. Are you able to proffer any  
5 testimony that Steve Ditko wasn't subject to  
6 Stanley's editorial supervision?

7 MR. TOBEROFF: Object. Do you  
8 understand her question?

9 THE WITNESS: No, I don't.

10 MR. TOBEROFF: Do you understand  
11 her questions?

12 THE WITNESS: No I don't.

13 MR. TOBEROFF: Do not answer  
14 questions that you don't understand.  
15 Okay?

16 And again, if you don't have a  
17 basis because you don't have personal  
18 knowledge, I'd like you to specifically  
19 state that, sir. Is that understood?

20 THE WITNESS: I'm trying.

21 MR. TOBEROFF: I would rather --  
22 it's not a yes or no question, if you  
23 need to state where your answer is no  
24 because you don't have knowledge. And  
25 as far as evidence is concerned, you may

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supervision?

A. I have no knowledge.

Q. Okay. Thank you.

Do you think you're qualified,  
Mr. Ditko, to testify on whether Steve  
Ditko's work for Marvel from 1962 to 1966 was  
done on a work made for hire basis?

A. I have no idea, no knowledge.

Q. Do you know what it means to, for  
work to have been made on a work for hire  
basis?

A. No.

Q. Did you ever discuss with your  
brother Steve whether his work for Marvel was  
done on a work made for hire basis?

A. No.

Q. Are you aware that your brother  
Steve and Jack Kirby overlapped at Marvel for  
several years?

MR. TOBEROFF: Object as to form.  
Lacks foundation.

You could answer.

A. No.

THE VIDEOGRAPHER: If I could just

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Q. So you found what's been marked as Exhibit 100, which is in front of you in an actual book in your brother's apartment?

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4

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MR. TOBEROFF: Objection as to

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form.

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A. I don't where it was. It was in another file other than his reference file.

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He had other files also.

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11

Q. Did he have a file relating to his work with Marvel?

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MR. TOBEROFF: Objection as to

13

form.

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A. No, not really.

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16

Q. Did you find any agreement between he and Marvel?

17

MR. TOBEROFF: Objection as to

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form.

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A. No.

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Q. Did you found any agreements between Steve Ditko and DC Comics?

22

MR. TOBEROFF: Objection as to

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form.

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A. There may have been something there, but I'm not -- I don't really recall.



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but -- I would say yes.

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Q. Yes, you understood that your brother's estate was worth over a million, correct?

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A. Correct.

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Q. And does that also help refresh your recollection that each third of the family -- as you said, there's three families -- had received hundreds of thousands of dollars of Steve Ditko's estate at the time of his passing; is that correct?

MR. TOBEROFF: Objection as to form, assumes facts.

A. I don't think -- no, that's not correct.

Q. The monies that you received from your brother's estate, do you -- have you passed any of those monies along to your son Mark?

A. Only expenses from New York, from Johnstown to New York, because he -- yes.

Q. Other than that, has he received any monies from the estate?

A. Mark?

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C E R T I F I C A T E

STATE OF NEW YORK )

: ss.


COUNTY OF NEW YORK )

I, Jennifer Ocampo-Guzman, a  
Certified Realtime Shorthand Reporter and  
Notary Public within and for the State of New  
York, do hereby certify:

That PATRICK S. DITKO, the  
witness whose deposition is hereinbefore set  
forth, was duly sworn, and that such  
deposition is a true record of the testimony  
given by the witness.

I further certify that I am not  
related to any of the parties to this action  
by blood or marriage, and that I am in no  
way interested in the outcome of this  
matter.

IN WITNESS WHEREOF, I have  
hereunto set my hand this 1st day of  
March, 2023.

A handwritten signature in black ink, appearing to read "Jennifer Ocampo-Guzman", is written over a line of text that includes a small code "<%513782970111%>".

JENNIFER OCAMPO-GUZMAN, CRR, CLR

----- I N D E X -----

WITNESS	EXAMINATION BY	PAGE
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PATRICK S. DITKO	MS. LENS	6
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	MR. TOBEROFF	201
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----- EXHIBITS -----

EXHIBITS	FOR I.D.
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Exhibit 122, Complaint for	94
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Declaratory Relief	
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Exhibit 123, Defendant Ditko's	112
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Supplemental Responses and	
Objections to Plaintiff's Third Set	
of Interrogatories to Patrick S	
Ditko	

Exhibit 124, Article	137
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entitled, "Ditko family working to	
share Johnstown comics legend's	
story, promote his legacy."	

Exhibit 125, Affidavit, Bates Nos.	150
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2021MARVEL-0070642 through	
2021MARVEL-0070643	

Exhibit 126, Photocopies of	197
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handwritten letters	
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MARKED FOR RULING

PAGE	LINE
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26	19
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